

SIA-035 Re: Infrastructure

Identify and produce copies of all network and facility plans made by WW since January 1, 2000 to upgrade and/or add sufficient capacity to its facilities in Kansas to enable the implementation of interexchange telecommunication services in the areas identified in Exhibit A to WW's BUS Offering.

RESPONSE:

Western Wireless states that it has done nothing "to enable the implementation of interexchange telecommunication service." The upgrades it has done in Kansas since January 1, 2000 have increased signal strength and added capacity to Western Wireless' network. A wireless network does not distinguish between interexchange and intraexchange services. Western Wireless is in the process of collecting information on these upgrades and will produce that information (subject to the Protective Order in this docket) once it is available.

SIA-036 Re: KUSF

Mr. Blundell testified that WW is only seeking funding for customers that utilize the WAU, not for its hand-held phones. (Tr Vol. 1, p. 118, Ins. 1115-21). Is it WW's position that it will never seek funding for the use of hand-held phones?

RESPONSE:

According to the Commission, Western Wireless has answered this request and no further information is required.

Respectfully submitted,

By: 

Mark P. Johnson

Lisa C. Creighton KS Bar No. 14847

Sonnenschein Nath & Rosenthal

4520 Main Street, Suite 1100

Kansas City, MO 64111

(816) 460-2400

(816) 531-7545 FAX

Mark J. Ayotte
Philip R. Schenkenberg
Briggs and Morgan, P.A.
W2200 First National Bank Building
332 Minnesota Street
Saint Paul, Minnesota 55101
(651) 223-6561
(651) 223-6450 FAX

**ATTORNEYS FOR GCC LICENSE
CORPORATION**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was forwarded via Federal Express on this 28th day of September, 2000, to:

Mark E. Caplinger
James M. Caplinger
James M. Caplinger, Chartered
823 W. 10th Street
Topeka, Kansas 66612



Attorney for GCC License Corporation

ATTACHMENT G

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

STATE CORPORATION COMMISSION

CHAIR JOHN WINE
COMMISSIONER SUSAN SELTSAM
COMMISSIONER CYNTHIA CLAUS

SEP 02 1998

Docket
Room

In the Matter of)
GCC License Corporation's)
Petition for Designation as an)
Eligible Telecommunications Carrier)

Docket No. 99-GCCZ-156-ETC

VERIFIED PETITION FOR DESIGNATION

GCC License Corporation, doing business in Kansas as Western Wireless, pursuant to Section 214(e)(2) of the federal Communications Act of 1934, as amended ("Act"), hereby petitions the Kansas Corporation Commission (the "Commission") for an order designating Western Wireless as an Eligible Telecommunications Carrier ("ETC") for the receipt of support from the federal universal service program in the service areas designated herein. In addition, Western Wireless seeks designation as an ETC for the receipt of support from the Kansas Universal Service Fund ("KUSF").

I. INTRODUCTION.

As a preliminary matter, Western Wireless emphasizes that in filing this petition, it intends to help provide universal service to consumers in rural areas of Kansas, and to work collaboratively with the Commission in developing pro-competitive universal service policies. As the Commission is undoubtedly aware, Western Wireless filed a Petition for Preemption with the Federal Communications Commission ("FCC") on July 20, 1998, requesting that the FCC preempt certain aspects of the existing Kansas universal service fund

program.' It is Western Wireless' desire to work with the Commission and other interested parties in a cooperative effort to develop a competitively-neutral universal service program that is fully consistent with Sections 253 and 254 of the Act, which, in turn, will allow Kansas consumers in all parts of the state to realize the benefits of a competitive market.

In the following sections of this petition, Western Wireless demonstrates that: (1) it satisfies the statutory criteria for certification as an ETC for both federal and state universal service benefits; (2) such designation, with respect to rural telephone companies' service territories, is in the public interest; and (3) commercial mobile radio service ("CMRS") providers like Western Wireless should not be subject to state certification requirements in connection with designating them as ETCs.

II. WESTERN WIRELESS IS QUALIFIED TO BE DESIGNATED AS AN ETC.

A. Western Wireless Fulfills Each of the ETC Criteria That Wireless Telecommunications Provers Can Currently Meet.

Western Wireless is a telecommunications carrier as defined by Section 3(49) of the Act. 47 U.S.C. § 153(49). It is authorized to do business in Kansas, as demonstrated by attached Exhibit A.

Western Wireless has provided cellular service in Kansas since the early 1990's, and currently serves customers in both urban and rural counties under the Cellular One brand name, including Allen, Anderson, Bourbon, Chase, Clay, Cloud, Coffey, Cowley, Dickinson, Ellsworth, Franklin, Geary, Greenwood, Harper, Harvey, Jewell, Kingman, Lincoln, Linn, Lyon, Marion, Marshall, McPherson, Miami, Mitchell, Morris,

¹ At the same time, Western Wireless strongly supports efforts of the Commission and the KUSF Working Committee to develop a competitively neutral universal service program, designed to ensure the availability of essential telecommunications services to consumers in high-cost areas in the state.

Nemaha, Ottawa, Pottawatomie, Reno, Republic, Rice, Riley, Saline, Sumner, Wabaunsee, Washington, and Woodson Counties. Additionally, companies affiliated with Western Wireless provide or are authorized to provide personal communications service (PCS) and competitive local and long distance service in Kansas.

Sections 214(3) and 254 of the Act authorize the Commission to designate entities like Western Wireless as ETCs. Section 214(e)(2) requires that state commissions designate as an ETC any common carrier that, throughout the service area for which designation of ETC status is sought, (i) offers services that are supported by Federal universal service support mechanisms, and (ii) advertises the availability of such services. With respect to the second of these criteria, Western Wireless currently advertises its services through several different media in Kansas, and assures the Commission that it will continue to advertise the availability of supported services by using media widely available to the public in those areas in which it provides the services supported by universal service.

With respect to the first of the Section 214(e)(2) criteria, Western Wireless provides all of the services supported by federal universal service program. In the First Report and Order implementing Sections 214(e) and 254, the FCC adopted the Federal-State Joint Board's recommendations regarding the specific services to be supported by federal universal service support mechanisms, the services that a carrier must provide to be designated as an ETC. Specifically, these services include:

- (1) single-party service;
- (2) voice-grade access to the public switched telephone network ("PSTN");
- (3) dual tone multi-frequency signaling or its functional equivalent;
- (4) access to operator services;

- (5) access to emergency services;
- (6) access to interexchange services; and
- (7) access to directory assistance.

Western Wireless will provide each of the FCC-identified services eligible for federal universal service support. The FCC also recognized explicitly that wireless telecommunications providers may be designated as ETCs.

Section 214(e)(2) of the Act provides that ETC designations shall be made for a "service area" designated by the Commission, and Section 214(e)(5) of the Act provides that the "service area" shall be a geographic area established by the Commission. Given that the Commission has not generally defined the service areas required to be served by ETCs, and pending the definition of such service areas, Western Wireless seeks herein designation as an ETC in the exchange areas of the ILECs identified in Appendix B. Western Wireless will make available the universal services provided pursuant to its ETC designation to all consumers in the exchange area in which it seeks designation and offers the services supported by universal service.

B. The Public Interest Would Be Served by Designating Western Wireless as an ETC in Certain Geographic Areas Served by Rural Telephone Companies.

Section 214(e)(2) of the Act provides that state commissions may designate more than one ETC in geographic areas served by incumbent local exchange carriers designated as rural telephone companies ("RTCs") upon a finding that the public interest would be served. Grant of this Petition would substantially advance the public interest in RTC service areas (as well as in areas served by non-RTCs), for the following reasons.

Fundamentally, consumers in RTC areas, as well as other parts of Kansas, are entitled to a choice among technologies and providers through which they will receive services supported by the federal and state universal service high-cost support programs. Moreover, wireless universal service providers offer additional services not offered by wireline carriers, such as mobility, access to emergency services without regard to the availability of landline telephones, and large local calling areas. Western Wireless will provide high-quality, reliable "universal service" of equal or better quality and reliability than the service offered by wireline carriers. Finally, by designating Western Wireless as an ETC, the Commission will engender competition among carriers providing service supported by the federal and state universal service high-cost support programs. This competition will benefit consumers.

C. Western Wireless Seeks Designation as an ETC for the Kansas Universal Service Fund.

Western Wireless also seeks designation as an ETC with respect to the Kansas Universal Service Fund. The Commission has not yet established criteria for which entities will be designated as eligible to receive support from the KUSF. Nonetheless, Western Wireless respectfully submits that the Commission should use the same criteria as used for the federal program. Adopting similar criteria would afford ease of administration to the Kansas program -- determinations of a carrier's ETC status for both federal and state programs could be made based on the same inquiry and showing. More importantly, the federal criteria, adopted through an extensive rulemaking process with the assistance of the Federal-State Joint Board, closely track the statute and represent prudent policy determinations as to what services should be supported.

III. THE COMMISSION CAN, AND MUST, DESIGNATE WESTERN WIRELESS AS AN ETC WITHOUT SUBJECTING THE COMPANY TO KANSAS' CERTIFICATION REQUIREMENTS.

Western Wireless is eligible to attain ETC status in Kansas for both federal and state programs even though, as a CMRS carrier, it is exempt from the requirement to obtain a certificate of convenience and necessity from the Commission. The Act, FCC precedent, and the Kansas statutes clearly bar the Commission from requiring CMRS providers like Western Wireless to obtain state certification as a precondition to being designated as an ETC. Section 332(c)(3) of the Act states that "no State . . . shall have any authority to regulate the entry of . . . any commercial mobile service[.]", and K. S. A. 66-1, 143(b) states that "no radio common carrier shall be subject to the jurisdiction, regulation, supervision and control of the state corporation commission."

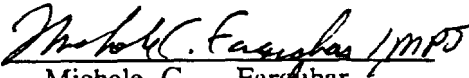
In keeping with the statutory scheme, the FCC has determined that CMRS providers, which are "not subject to the full panoply of state regulation[,] may still be designated as eligible telecommunications carriers." Report and Order, CC Docket No. 96-45, 12 FCC Rcd 8776, 8859 ¶ 64 (1997), 62 FR 32862, 32871 (1997). Supporting this determination, the FCC concluded that "nothing in section 214(e)(1) requires that a carrier be subject to the jurisdiction of a state commission in order to be designated an eligible telecommunications carrier." Id.

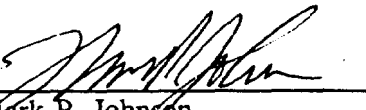
IV. CONCLUSION

For the reasons discussed above, Western Wireless Corporation respectfully requests that the Commission issue an order designating Western Wireless Corporation as an ETC for purposes of receiving federal and state universal service support within the service areas in which it provides service, effective immediately.

Respectfully submitted,

Gene DeJordy
Executive Director of
Regulatory Affairs
WESTERN WIRELESS CORPORATION
3650 131st Ave., S.E., Suite 400
Bellevue, WA 98006
(425) 586-8055

By: 
Michele C. Farguhar
David L. Sieradzki
Ronnie London
HOGAN & HARTSON, L.L.P.
Columbia Square
555 13th Street, N.W.
Washington, D. C. 20004
(202) 637-5600


Mark P. Johnson
Lisa C. Creighton KS Bar #14847
Amy E. Bauman KS Bar #18166
**SONNENSCHN, NATH
& ROSENTHAL**
4520 Main Street, Suite 1100
Kansas City, Missouri 64111
(816) 932-4400

Counsel for Western Wireless Corporation

Dated: September 2, 1998

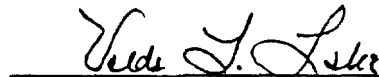
VERIFICATION

STATE OF MISSOURI)
) ss:
COUNTY OF JACKSON)

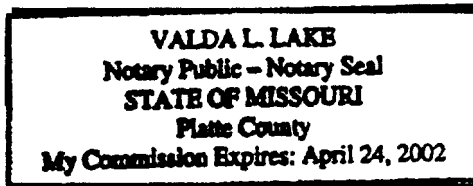
I, Mark P. Johnson, being duly sworn upon oath depose and say that I am one of the attorneys for GCC License Corporation, dba Western Wireless; that I am authorized to make this verification on its behalf; that I have read the above and foregoing Petition and state that its contents are true and correct to the best of my knowledge and belief.


Mark P. Johnson

Subscribed and Sworn to before me this 2nd day of September, 1998.


Notary Public

My Commission Expires:



STATE OF KANSAS

OFFICE OF
SECRETARY OF STATE
RONTHORNBURGH



To all to whom these presents shall come, Greetings:

I, RON THORNBURGH, Secretary of State of the state of Kansas, do hereby certify that I am the custodian of records of the State of Kansas relating to corporations and that I am the proper official to execute this certificate.

I FURTHER CERTIFY THAT

GCC LICENSE CORPORATION

is a regularly and properly organized corporation under the laws of the state of DELAWARE having been authorized in Kansas on the 14th day of November, A.D. 1994 and has paid all fees and franchise taxes due this office and is in good standing according to the records now on file in the office of Secretary of State.

In testimony whereof:
I hereto set my hand and cause
to be affixed my official seal.
Done at the City of Topeka, this
1st day of September, A.D. 1998



RON THORNBURGH
SECRETARY OF STATE

ATTACHMENT B.

**EXCHANGE AREAS IN WHICH WESTERN WIRELESS IS SEEKING
DESIGNATION AS AN ETC**

All Local Telephone Company Exchanges in the Following Counties:

Allen

Anderson

Bourbon

Chase

Clay

Cloud

Coffey

Cowley

Dickinson

Ellsworth

Franklin

Geary

Greenwood

Harper

Harvey

Jewell

Kingman

Lincoln

Linn

Lyon

Marion

Marshall

McPherson

Miami

Mitchell

Morris

Nemaha

Ottawa

Pottawatomie

Reno

Republic

Rice

Riley

Saline

Sumner

Wabaunsee

Washington

Woodson

ATTACHMENT H

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: John Wine, Chair
Cynthia L. Claus
Brian J. Moline

In the Matter of GCC License Corporation's)
Petition for Designation as an Eligible) Docket No. 99-GCCZ-156-ETC
Telecommunications Carrier.)

Application of Sprint Spectrum L.P. (d/b/a)
Sprint PCS) For Designation as an Eligible)
Telecommunications Carrier for Purposes of) Docket No. 99-SSLC-173-ETC
Receiving Federal and State Universal Service)
support)

**ORDER #6 GRANTING SPRINT PCS AND WESTERN WIRELESS ETC
DESIGNATION IN NON-RURAL TELEPHONE COMPANY WIRE CENTERS FOR
FEDERAL UNIVERSAL SERVICE SUPPORT PURPOSES**

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas ("KCC"). Having examined its files and records, and being duly advised in the premises, the KCC finds as follows:

I. Background

1. On September 2, 1998, GCC License Corporation d/b/a Western Wireless ("WW") filed a petition asking the KCC to designate it an eligible telecommunications carrier ("ETC") in Kansas. On September 4, 1998, Sprint Spectrum L.P. d/b/a Sprint PCS ("Sprint PCS") filed a petition asking the KCC to designate it an ETC in Kansas. Both companies requested ETC designation for state and federal universal service purposes.

2. Southwestern Bell Telephone Company ("SWBT"), AT&T Communications of the Southwest, Inc. ("AT&T"), the Citizens' Utility Ratepayer Board ("CURB"), Independent

Telecommunications Group, Columbus et al. ("Columbus") and the State Independent Alliance ("SIA") intervened in the docket.

3. On March 18, 1999, the KCC issued an order in which it requested the parties to file briefs regarding whether WW and Sprint PCS, meet the criteria to be designated ETCs in Kansas non-rural telephone company local exchange service areas for purposes of receiving state and federal universal service support. The KCC requested the parties to brief two issues: (1) whether granting either applicant ETC status in the non-rural telephone company exchange service areas would violate Sections 214(e)(1), (2), and (5) of the Federal Act, and FCC rules; and (2) whether K.S.A. 66-2003(a) and 66-2005(v) require the applicants to obtain a certificate of public convenience and authority prior to becoming eligible for KUSF disbursements.

4. On April 30, 1999, SIA, SWBT, WW, CURB, and Sprint PCS filed briefs. Columbus filed a Statement of Concurrence in support of SIA's brief. AT&T filed a letter in support of WW's and Sprint PCS' applications for ETC status.

II. Discussion

A. Whether K.S.A. 66-2003(a) and K.S.A. 66-2005(v) require WW and Sprint PCS to obtain certificates of public convenience and authority prior to being designated ETCs?

5. K.S.A. 66-2003(a) provides that "[o]n or before September 1, 1996, the commission shall begin to authorize applications for certificates of public convenience and necessity to provide local exchange or exchange access service." K.S.A. 66-2005(v) provides that,

[T]elecommunications carriers that were not authorized to provide switched local exchange telecommunications services in this state as of July 1, 1996, including cable television operators who have not previously offered telecommunications services, must receive a certificate of convenience based upon a demonstration of

technical, managerial and financial viability and the ability to meet quality of service standards, established by the commission.

1. **Briefs**

6. Sprint PCS and WW state that the Commission has no authority to require it to obtain a certificate of convenience and necessity because K.S.A. 66-1,143(b) and Section 332(c)(3) of the Federal Act preclude a state commission from imposing rate and entry regulation on CMRS providers. WW states that the FCC has rejected the argument that a state commission could require an applicant to submit to its jurisdiction as a condition of ETC designation.

7. CURB states that WW and Sprint PCS should be required to obtain a certificate of public convenience and authority prior to being granted ETC status.

8. SIA states the Commission should require the applicants to obtain a certificate of convenience and authority. SIA asserts the Commission should require the applicants to obtain a certificate in order to ensure that the applicants provide universal service in non-rural service areas. SIA also asserts that the Commission should determine whether the applicants' service is affordable to consumers prior to granting ETC status. SIA states a requirement to obtain a certificate will better guarantee that every Kansan will have access to a first class telecommunications infrastructure with excellent services at an affordable price.

9. SWBT asserts that only "fixed" wireless service should be eligible for universal service support. SWBT states that mobile companies may "game" the KUSF system by drawing from the KUSF to cover the cost of serving in high-cost areas while not actually serving in high-cost areas. SWBT asserts that the applicants should be required to obtain a certificate of convenience and authority unless they intend to provide "pure" CMRS service and should be required to meet quality of service standards.

2. **Findings of Fact and Conclusions of Law**

10. 47 U.S.C. 332(c)(3)(A) provides that,

(3) State preemption.-- (A) Notwithstanding sections 2(b) and 221(b), no state or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile service. Nothing in this subparagraph shall exempt providers of commercial mobile services (where such services are a substitute for landline telephone exchange service for a substantial portion of the communications within such State) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the universal availability for telecommunications service at affordable rates.

47 U.S.C. 332(c)(3)(A) (1997).

11. K.S.A. 66-1,143(b) provides that “no radio common carrier shall be subject to the jurisdiction, regulation, supervision and control of the state corporation commission.” Based on state and federal law, the KCC finds that it is precluded from regulating the entry of or the rates charged by WW and Sprint PCS. The KCC concludes that WW and Sprint PCS are not required to obtain a certificate of convenience and authority as a condition to being designated ETCs.

B. **Whether Applicants Meet the Requirements of Section 214(e)(1)(2) and (5)?**

12. Section 214(e)(1) of the Federal Act states that ETCs shall, throughout the service area for which designation as an eligible carrier is received:

- (A) Offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier’s services (including the services offered by another eligible telecommunications carrier); and

¹The law makes an exception if the radio common carrier interconnects its telephone facilities with those of the certificated telephone public utility, serving the exchange area in which the base station is located. K.S.A. 66-1,143(b); K.S.A. 66-1,145.

- (B) Advertise the availability of such services and the charges therefor using media of general distribution.

47 U.S.C. 214(e)(1) (1996).

1. **Briefs**

13. Sprint PCS states that it complies with Section 214(e)(1), (2) and (5) and, therefore, should be designated an ETC for purposes of federal and state universal service programs. Sprint PCS states that any telecommunications carrier that meets the Section 214(e)(1) criteria is eligible for universal support.

14. WW states that Section 214(e) contemplates the designation of all telecommunications carriers, including CMRS providers, as ETCs for federal and state universal service support. WW states that Section 214(e)(2) provides that a state commission is required to grant ETC designation to common carriers that meet the requirements of Section 214(e)(1) for service areas designated by the state commission. WW states that a public interest determination is only required when designating an additional ETC in areas served by a rural telephone company.

15. CURB states that the KCC should grant the applicants ETC status if they offer the services required by the federal and state acts.

16. SIA states that neither applicant meets the ETC designation criteria established in the Federal Act. SIA states that a mere willingness to offer the universal services identified in 47 C.F.R. § 54.101(a) is insufficient to receive ETC designation. SIA states that a company must currently offer the universal services identified in FCC rule 54.101(a). SIA states the applicants have not shown they currently offer the required universal services.

17. SIA states the applicants also have failed to show they comply with 47 C.F.R. § 54.101(a)(2). SIA states that FCC rule 54.101(a)(2) requires ETCs to offer unlimited local usage. SIA states that neither applicant offers unlimited local usage service. SIA states that the applicants have provided no plan indicating what amount of local usage they offer at a flat rate with no per minute charge. SIA states the applicants also have failed to show they comply with 47 C.F.R. § 54.101(a)(5). SIA states that FCC rule 54.101(a)(5) requires ETCs to provide access to 9 11 and enhanced 9 11 emergency services provided by local government or other public safety organizations.

18. SIA states the applicants also have failed to show they comply with 47 C.F.R. § 54.101(a)(8). SIA states that FCC rule 54.101(a)(8) requires ETCs to provide directory assistance. SIA asserts that WW's affidavit indicates WW does not offer access to telephone numbers of WW's customers. SIA states the applicants also have failed to show they comply with 47 C.F.R. § 54.101(a)(9). SIA states that FCC rule 54.101(a)(9) requires ETCs to offer toll limitation or toll blocking. SIA states that WW's affidavit indicates WW will provide toll blocking service only for international calls and customer selected calls.

19. SIA states that the applicants have not shown they have facilities in place to provide service throughout the entire non-rural areas in which they seek ETC designation. SIA states the KCC should require the applicants to provide the number, range and location of all transmitters currently deployed in Kansas and signal characteristics to assess whether coverage in the pertinent services areas is adequate to provide universal services.

20. SWBT states that the applicants do not meet the federal and state criteria to become ETCs. SWBT states that Sprint and WW should be required to meet the same criteria as

other ETCs, otherwise, distributions from the KUSF will not be made in a competitively neutral manner. SWBT states that K.S.A. 66-1,187(p) requires an ETC to offer equal access to long distance services and that neither applicant provides its customers equal access to long distance services.

21. SWBT states that if the KCC designates the applicants ETCs, the KCC should determine the amount of local usage carriers should be required to offer. SWBT states that although WW has indicated it will comply with any minimum local usage requirement the FCC establishes, Sprint PCS has not stated it will comply with such a requirement.

22. SWBT asserts that the KCC should require the applicants to offer service throughout the same service areas other carriers are required to offer service. SWBT also asserts that Section 214(e)(4) of the Federal Act allows a state to permit an ETC to relinquish its designation in any area served by more than one eligible telecommunications carrier. SWBT states that the KCC should consider whether the applicants possess the ability to adequately serve the area in which they have requested ETC designation in the event current ETCs serving in those areas relinquish their ETC designation. SWBT states that neither applicant has indicated its ability to adequately serve the areas in which they desire ETC designation.

2. Findings of Fact and Conclusions of Law

A. Services Designated for Support

23. 47 C.F.R. § 54.101(a) identifies the services or functionalities that shall be supported by federal universal service support mechanisms. FCC rule 54.101(a)(1) provides that voice grade access to the public switched network shall be supported by federal universal service

support.² WW's affidavit indicates it provides voice grade access to the public switched network. Sprint PCS' affidavit indicates it provides voice grade access to the public switched network. The KCC finds WW and Sprint PCS provide voice grade access to the public switched network. The KCC concludes WW and Sprint PCS are in compliance with FCC rule 54.101(a)(1).

24. FCC rule 54.101(a)(2) provides that local usage shall be supported by Federal universal service support.³ WW's affidavit indicates it offers local usage and will comply with any minimum local usage requirements the FCC adopts. Sprint PCS's affidavit indicates it currently offers local usage. The FCC initiated a proceeding to identify a minimum amount of local usage required to be included in a universal service offering. *See, In the Matter of Federal State Board on Universal Service*, CC Docket 96-45, Report and Order, FCC 97-157 (May 8, 1997), ¶ 67 ("Universal Service Order"); Universal Service Further Notice of Proposed Rulemaking, FCC 98-278 (October 26, 1998) ("NPRM"). The KCC finds that the FCC has not rendered a decision in that proceeding. When the FCC renders its decision, all ETCs will be required to comply with any minimum local usage requirements adopted by the FCC. The KCC finds that WW and Sprint PCS offer local usage in compliance with current FCC requirements. The KCC concludes that WW and Sprint PCS are in compliance with FCC rule 54.101(a)(2).

²Voice grade access is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call. Voice grade access shall occur within the frequency range of between approximately 500 Hertz and 4,000 Hertz, for a bandwidth of approximately 3,500 Hertz. 47 C.F.R. §54.101(a)(1).

³Local usage means an amount of minutes of use of exchange service, prescribed by the FCC, provided free of charge to end users. 47 C.F.R. §54.101(a)(2).